IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17661 of 2004

Between:

Bhasker Raj Saxena S/o. Late Sri Narhar Raj,
Shahalibanda, Hyderabad and R/o. 3-6-69/B/4, Avanthinagar, Hyd.

..... PETITIONER

AND

1 The Commissioner of Endowments, Tilak road, Abids, Hyd.
2 The Dy. Commissioner of Endowments, Tilak Road, Abids, Hyd.
3 Sudershan Ausekar, S/o. Gajanand Rao
R/o. 23-5-430, Shahalibanda, Hyd.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus to direct the 1st respondent to furnish the certified copy of the order dt. 10.09.2004 in proceedings No.RCD.BC-1/39860/2004 passed by the 1st respondent, thereby transferring O.A.No.11/1998 from the office of the 2nd respondent to the office of the Dy. Commissioner of Endowments, Warangal and further to suspend the said order dt. 10.09.2004 of the 1st respondent, till the petitioner avails the statutory appeal remedy as contemplated under Section 132(2) of Charitable and Hindu Religious Institutions and Endowments Act, 1987 in pursuance of the Representation Dt. 17.09.2004 submitted by the petitioner to the 1st respondent.

Counsel for the Petitioner:MR.P. SHIV KUMAR

Counsel for Respondents 1 and 2: GP FOR ENDOWMENTS

Counsel for Respondent No.3: --

The Court at the stage of admission made the following Order:

The petitioner claims to be the founder trustee of Sri Ramchanderji Temple, situated at Shahalibanda, Hyderabad. He filed O.A.No.11 of 1998 before the second respondent-Deputy Commissioner of Endowments, Tilak Road, Abids, Hyderabad, seeking eviction of the third respondent from the temple properties. The petitioner alleges that the said O.A. which was pending on the file of the second respondent – Deputy Commissioner of Endowments, Hyderabad , was transferred to the Deputy Commissioner of Endowments, Warangal, vide orders of the first respondent-Commissioner of Endowments, dated 10-09-2004, without notice to the petitioner. In the circumstances, the petitioner made a representation dated 17-09-2004 to the first respondent requesting to furnish a copy of the order dated 10-09-2004 and also requesting to suspend the operation of the said order. The grievance of the petitioner is that without furnishing the certified copy as sought for, the order of the first respondent dated 10-09-2004 is sought to be implemented. Hence, this writ petition seeking a declaration that the action of the first respondent in not furnishing the certified copy of the order dated 10-09-2004, as arbitrary and illegal.

I have heard the learned counsel for the petitioner and the learned Government Pleader for Endowments appearing for respondents 1 and 2.

Admittedly, the petitioner is the applicant in O.A.No.11 of 1998, which appears to have been transferred from the file of Deputy Commissioner of Endowments, Hyderabad to Warangal. May be that the first respondent is conferred with such power under Section 132(1) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short, 'the Act'). However, a remedy of Appeal is

provided under sub-section (2) of Section 132 of the Act and any person aggrieved is entitled to prefer an Appeal to the Government. Hence, there is absolutely no justifiable reason to deny a copy of the order of transfer to the petitioner, who states that he is aggrieved by the order of transfer and intends to avail the remedy of Statutory Appeal. Such an action would amount to denying the substantive right of Appeal provided under the Statute.

Accordingly, the writ petition is disposed of with a direction to the first respondent-Commissioner of Endowments, Tilak Road, Abids, Hyderabad to furnish a certified copy of the order dated 10-09-2004 to the petitioner within a period of two weeks from the date of receipt of this order. Till such copy is furnished, the order of the first respondent dated 10-09-2004 in Proceedings No.RCD.BC-1/39860/2004 shall not be given effect to. No costs.

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13-10-2004

kdl

To

1 The Commissioner of Endowments, Tilak road, Abids, Hyd.
2 The Dy. Commissioner of Endowments, Tilak Road, Abids, Hyd.
3 Two C.Cs. to the Government Pleader for Endowments, High Court Buildings, A.P., Hyderabad, (OUT).

4 Two C.D. Copies.